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REPORT AND RECOMMENDATIONS MADE BY THE PANEL OF COMMISSIONERS CONCERNING THE THIRD INSTALMENT OF CLAIMS FOR SERIOUS PERSONAL INJURY OR DEATH (CATEGORY "B" CLAIMS)

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CONTENTS

	Paragraphs	Page
INTRODUCTION	1 - 7	3
I. CLAIMS WHERE ADDITIONAL INFORMATION WAS REQUESTED	8 - 13	4
A. Claims in the first and second instalments where further documentation had been requested and was submitted	10	4
1. First instalment		5
2. Second instalment: Part One		5
3. Second instalment: Part Two		6
B. Claims in the first and second instalments where further documentation had been requested and was not submitted	11 - 13	6
II. CLAIMS IN THE THIRD INSTALMENT	14 - 20	7
A. Overview of the claims	14 - 16	7
B. Claims for which compensation is recommended	17	8
C. Claims for which no compensation is recommended	18	9
D. Claims transferred to the category "C" Panel of Commissioners ("transferred" claims)	19	9
E. Eligible claims for which no compensation is recommended at this stage ("suspended" claims)	20	9
III. APPLICATION OF ARTICLE 41 OF THE RULES	21 - 22	9
IV. SUMMARY OF RECOMMENDATIONS	23 - 24	10
Notes		14

INTRODUCTION

1. This is the fourth report that the Panel of Commissioners appointed for claims in category "B" submits to the Governing Council of the United Nations Compensation Commission in accordance with article 37(e) of the Provisional Rules for Claims Procedure (the "Rules").[1]/

2. This fourth report covers the 711 category "B" claims (third instalment) that were received by the Commission by 15 September 1995, which were found to meet all the formal requirements as stated in the Rules and, for the claims submitted after 1 January 1995, were accepted for filing by the Governing Council, and that were not included in previous instalments. It also covers the 309 claims from previous instalments where further documentation was requested by the Panel. This report is intended to complete the review of the category "B" claims except for claims that may be filed at a later date for serious personal injury/death resulting from mine explosions and claims that may be filed with respect to "missing" persons in Iraq or Kuwait, or detained persons in Iraq, who have been released or legally declared dead.[2]/

3. Applying the methodology determined by the Panel, the secretariat reviewed all of the claims that had not yet been presented to the Panel as well as all claims where further documentation had been requested. The secretariat made a preliminary assessment of each claim. The claims raising similar issues were grouped and samples were presented to the Panel. All claims where the secretariat's preliminary assessment would lead to a recommendation that no compensation be awarded were submitted to the Panel for its review on a country-by-country basis.

4. The claims in the third instalment were reviewed by the Panel at its session held from 16 to 20 October 1995. This session was held in Geneva at the headquarters of the secretariat and was conducted in private. Staff members of the secretariat attended the session of the Panel and provided support as required. When necessary, the Panel was aided by the medical expert appointed to provide assistance to the Panel and to the secretariat in the review of category "B" claims.

5. The principles established by the Panel in the first,[3]/ second[4]/ and third[5]/ reports, approved by the Governing Council in Decisions 20,[6]/ 26[7]/ and 27,[8]/ respectively, were applied to the claims in the third instalment. This fourth report does not raise any legal issues other than those addressed in the Panel's previous reports and should be read in conjunction with the latter.

6. In particular, this report covers claims recommended for compensation that are related to other claims where the maximum amount of US$10,000.00 has already been awarded to family members who submitted claims in previous instalments. The Panel recalls that successful claimants whose claims are

reported hereby are entitled to receive compensation on an equal basis from the maximum amount awarded to family members in the previous instalments even though "zero" amounts have been stated with respect to their claims in the annexes attached to this report.[2/]

7. The annexes to this fourth report list, by consolidated claim submission, the individual recommendations made by the Panel for each claim.

I. CLAIMS WHERE ADDITIONAL INFORMATION WAS REQUESTED

8. In the previous instalments the Panel had before it a number of claims for death where no proof of family relationship had been submitted. The Panel requested that the relevant Governments and international organizations provide additional documentation showing the family relationship between the claimant and the deceased. In other instances, the Panel deemed it necessary to receive more information regarding the identity of the claimant or the circumstances under which the serious personal injury or death occurred. In total, 309 such claims had been filed with the Commission by 19 Governments and one international organization.

9. Subsequent to the issuance of the Panel's second and third reports, seventeen Governments and one international organization submitted further documentation. Two Governments requested that one of the claims they had submitted be withdrawn. Two Governments did not file any additional documentation.

A. Claims in the first and second instalments where further documentation had been requested and was submitted

10. There were 179 claims in the first and second instalments where further documentation requested by the Panel was submitted. The secretariat examined these claims and presented them to the Panel along with a preliminary assessment. The Panel reviewed the claims and made its recommendations for the 179 claims that are listed in separate annexes. With respect to 131 claims, the Panel found that the documentation provided was satisfactory and recommended compensation. For 47 claims, the Panel did not recommend compensation since it found that either the documentation received was not satisfactory or that the information submitted indicated that the loss for which the claim had been filed was not directly linked to Iraq's invasion and occupation of Kuwait. The recommendations for each consolidated claim submission in which claims were supplemented by some documentation are as follows:

1. First instalment

Government	Submission	Amount Awarded (US$)
Jordan	JO/103/01B	197,500.00
Kuwait	KW/007/01B	5,000.00
Kuwait	KW/144/03B	5,000.00
Sri Lanka	LK/109/01B	17,500.00
Total		225,000.00

2. Second instalment: Part One

Government/ International Organization	Submission	Amount Awarded (US$)
Australia	AU/290/02B	2,500.00
Bangladesh	BD/182/01B	57,500.00
Bulgaria	BG/419/01B	2,500.00
Canada	CA/279/01B	2,500.00
Egypt	EG/460/02B	10,000.00
	EG/510/04B	10,000.00
	EG/688/06B	0.00
India	IN/172/01B	2,500.00
	IN/180/02B	7,500.00
	IN/267/03B	7,500.00
	IN/376/09B	15,000.00
	IN/402/10B	7,500.00
Jordan	JO/301/02B	10,000.00
Kuwait	KW/191/04B	7,500.00
	KW/273/05B	10,000.00
	KW/368/06B	2,500.00
	KW/430/07B	5,000.00
	KW/546/08B	17,500.00
Pakistan	PK/174/02B	7,500.00
	PK/317/03B	30,000.00
Sri Lanka	LK/333/02B	2,500.00

Government/ International Organization	Submission	Amount Awarded (US$)
United Kingdom	GB/194/07B	2,500.00
	GB/206/08B	10,000.00
	GB/375/12B	2,500.00
	GB/393/13B	2,500.00
UNRWA Vienna	PP/322/02B	7,500.00
Total		242,500.00

3. Second instalment: Part Two

Government	Submission	Amount Awarded (US$)
Canada	CA/942/03B	12,500.00
Egypt	EG/542/05B	107,500.00
	EG/1007/17B	10,000.00
Israel	IL/1015/02B	0.00
Jordan	JO/437/03B	40,000.00
	JO/599/04B	7,500.00
	JO/763/05B	0.00
	JO/893/06B	10,000.00
Kuwait	KW/802/11B	0.00
Lebanon	LB/458/01B	2,500.00
Pakistan	PK/567/04B	0.00
Sudan	SD/293/01B	55,000.00
Syria	SY/288/01B	25,000.00
Tunisia	TN/472/02B	7,500.00
Yemen	YE/559/01B	20,000.00
Total		297,500.00

B. Claims in the first and second instalments where further documentation had been requested and was not submitted

11. The Panel took note that the secretariat sent letters to the Permanent Missions of the Governments concerned to recall that further documentation had been requested for a number of claims in the Panel's previous reports. In

these letters, given that the third instalment of category "B" claims was intended to be the last one, a deadline was set for the submission of the necessary documentation. Nevertheless, in a number of claims further documentation was not submitted. The Panel also noted that in a number of claims, the information provided was that, for various reasons, no further documentation would be made available.

12. The Panel reviewed the claims, where further documentation had been requested but was not submitted, as a separate grouping so as to ensure a global comprehension of the specificities or of the common features of these claims, if any.

13. The Panel recalls that it had requested further documentation in cases where claims would not have been recommended for compensation due to the scarcity or lack of evidence contained in the claims. The Panel therefore recommends that no compensation be awarded to a claim where the documentation requested had not been submitted by the time the Panel reviewed the claim again.

II. CLAIMS IN THE THIRD INSTALMENT

A. Overview of the claims

14. The claims in the third instalment are comprised of 711 claims submitted by 14 Governments and one international Organization.[10/]

15. Based on its experience with the second instalment, where a number of claims required further documentation, the Panel had instructed the secretariat in advance to request Governments to provide further information for third instalment claims, if it was deemed necessary. Therefore, in cases where the preliminary assessment of a claim in the third instalment by the secretariat led to a request for additional information, the secretariat advised the submitting entity to obtain and submit the relevant documentation by a fixed deadline. The Panel made its recommendations for such claims on the basis of the information contained in the claims at the time that they were reviewed by the Panel.

16. The recommendations for each claim are contained in the annexes to this report. These annexes contain the claimant's name, the UNCC claim number, the national claim number, the deceased's or the injured person's name, and the Panel's recommendation for each element of the claim. Separate annexes list the claims for serious personal injury and the claims for death. The annexes are organized by consolidated claim submissions pursuant to article 37(e) of the Rules. The annexes are being provided to each respective Government or international organization separately due to their confidentiality.

B. Claims for which compensation is recommended

17. Out of 711 claims, the Panel recommends that compensation be awarded for 566 claims in the third instalment. As noted above, the recommendations on the claims are presented for each country by consolidated claim submission. The amounts of compensation with respect to each consolidated claim submission are as follows:

Third Instalment		
Total Amount Awarded by Consolidated Claim Submission		
Government/International Organization	Consolidated Claim Submission	Total Amount Awarded (US$)
Bangladesh	BD/1125/04B	2,500.00
Bulgaria	BG/1171/02B	0.00
Canada	CA/1074/04B	0.00
Egypt	EG/1030/18B	10,000.00
	EG/1079/19B	0.00
	EG/1146/20B	27,500.00
Ethiopia	ET/1180/01B	2,500.00
Germany	DE/1077/06B	0.00
India	IN/1038/16B	10,000.00
	IN/1050/17B	7,500.00
Israel	IL/1031/03B	2,500.00
	IL/1049/04B	2,500.00
Jordan	JO/1019/07B	240,000.00
	JO/1066/08B	82,500.00
	JO/1128/09B	2,500.00
	JO/1179/10B	5,000.00
Kuwait	KW/1009/12B	720,000.00
	KW/1075/13B	372,500.00
	KW/1098/15B	35,000.00
	KW/1148/16B	2,500.00
	KW/1152/17B	2,500.00
	KW/1155/18B	12,500.00
Pakistan	PK/1061/06B	7,500.00
	PK/1104/07B	10,000.00

Third Instalment		
Total Amount Awarded by Consolidated Claim Submission		
Government/International Organization	Consolidated Claim Submission	Total Amount Awarded (US$)
Somalia	SO/1106/02B	0.00
United Kingdom	GB/1150/19B	2,500.00
Yemen	YE/1093/02B	10,000.00
UNHCR Bulgaria	18/568/01B	2,500.00
UNHCR Canada	17/441/01B	2,500.00
	17/1091/02B	0.00
Total		1,575,000.00

C. Claims for which no compensation is recommended

18. The Panel recommends that no compensation be awarded in 135 claims in the third instalment.

D. Claims transferred to the category "C" Panel of Commissioners ("transferred" claims)

19. The Panel requests that the Executive Secretary transfer 17 claims for mental pain and anguish in the third instalment to the Panel of Commissioners dealing with the category "C" claims, in accordance with article 32, paragraph 3 of the Rules.

E. Eligible claims for which no compensation is recommended at this stage ("suspended" claims)

20. The Panel "suspends" the recommendations on four claims included in the third instalment for serious personal injuries on behalf of persons that are asserted to be still in detention in Iraq, or for death claims filed for "missing persons." No award of compensation is recommended at this stage for these claims.[11]/

III. APPLICATION OF ARTICLE 41 OF THE RULES[12]/

21. The Panel was informed by the secretariat that some computational errors had occurred in the amounts awarded for claims covered in previous reports. The Panel noted that the secretariat had reexamined all claims concerned and submitted to it corrected figures. The Panel recommends that the amounts in 10 consolidated claim submissions be rectified as follows:

Consolidated Claim Submission	Previous Amount Awarded (US$)	Rectified Amount (US$)	Difference (US$)
EG/542/05B	707,500.00	727,500.00	20,000.00
JO/103/01B	987,500.00	997,500.00	10,000.00
KW/007/01B	105,000.00	100,000.00	(5,000.00)
KW/144/03B	1,235,000.00	1,250,000.00	15,000.00
KW/191/04B	1,182,500.00	1,192,500.00	10,000.00
KW/273/05B	405,000.00	395,000.00	(10,000.00)
KW/430/06B	427,500.00	455,000.00	27,500.00
KW/546/08B	980,000.00	985,000.00	5,000.00
SD/293/01B	265,000.00	267,500.00	2,500.00
YE/559/01B	290,000.00	325,000.00	35,000.00

22. The correct amounts for individual claims in the 10 consolidated claim submissions are specified in the annexes that are being provided separately to the Government or international organization concerned. The Panel recommends that the difference in amounts resulting from the computational errors in the previous reports be added to or subtracted from the total amounts awarded to each of the Governments concerned with respect to the claims covered in this fourth report.

IV. SUMMARY OF RECOMMENDATIONS

23. The following table summarizes by country all of the recommendations made by the Panel in this fourth report:

Summary of Recommendations by Country					
Government/ International Organization	Claims Recommended for Payment	Claims Not Recommended for Payment[1]/	Transferred Claims	Suspended Claims	Total Amount Awarded (US$)
Australia[3]/	1	-	-	-	2,500.00
Bangladesh	1	-	-	1	2,500.00
Bangladesh[3]/	10	5	1	-	57,500.00
Bulgaria	-	1	-	-	0.00
Bulgaria[3]/	1	-	-	-	2,500.00
Canada	-	1	-	-	0.00
Canada[3]/	1	-	-	-	2,500.00

Summary of Recommendations by Country					
Government/ International Organization	Claims Recommended for Payment	Claims Not Recommended for Payment[1]/	Transferred Claims	Suspended Claims	Total Amount Awarded (US$)
Canada[4]/	2	-	-	-	12,500.00
Egypt	6	1	-	-	37,500.00
Egypt[3]/	2	2	-	-	20,000.00
Egypt[4]/	17	79	-	-	117,500.00
Egypt[5]/	5	1	-	-	20,000.00
Ethiopia	1	-	-	-	2,500.00
Germany	-	1	-	-	0.00
India	2	-	-	-	17,500.00
India[3]/	14	14	-	-	40,000.00
India[4]/	-	1	-	-	0.00
Israel	2	1	-	-	5,000.00
Israel[4]/	-	3	-	-	0.00
Jordan	79	34 [12]	2	3	330,000.00
Jordan[2]/	21	-	-	-	197,500.00
Jordan[3]/	1	6	-	-	10,000.00
Jordan[4]/	8	8	-	3	57,500.00
Jordan[5]/	1	-	-	-	10,000.00
Kuwait	463	80	6	-	1,145,000.00
Kuwait[2]/	2	-	-	-	10,000.00
Kuwait[3]/	11	8	-	-	42,500.00
Kuwait[4]/	-	1	-	-	0.00
Kuwait[5]/	9	3	-	-	42,500.00
Lebanon[4]/	1	-	-	-	2,500.00
Morocco[3]/	-	1	-	-	0.00
Morocco[4]/	-	1	-	-	0.00
Pakistan	6	-	1	-	17,500.00
Pakistan[3]/	4	-	-	-	37,500.00
Philippines[4]/	-	4	-	-	0.00
Somalia	-	-	2	-	0.00
Sri Lanka[2]/	2	-	-	-	17,500.00

Summary of Recommendations by Country					
Government/ International Organization	Claims Recommended for Payment	Claims Not Recommended for Payment①/	Transferred Claims	Suspended Claims	Total Amount Awarded (US$)
Sri Lanka③/	1	-	-	-	2,500.00
Sri Lanka④/	-	1	-	-	0.00
Sudan④/	14	4	-	-	55,000.00
Sudan⑤/	1	-	-	-	2,500.00
Syria④/	6	27	-	-	25,000.00
Tunisia④/	1	-	-	-	7,500.00
United Kingdom	1	-	-	-	2,500.00
United Kingdom③/	6	-	-	-	17,500.00
United Kingdom④/	-	1	-	-	0.00
Yemen	3	1 [1]	-	-	10,000.00
Yemen④/	2	6	-	-	20,000.00
Yemen⑤/	6	-	-	-	35,000.00
UNHCR Bulgaria	1	-	-	-	2,500.00
UNHCR Canada	1	2	6	-	2,500.00
UNRWA Vienna③/	3	-	-	-	7,500.00
Total⑥/	719	298 [13]	18	7	2,450,000.00

①/ Numbers in brackets indicate duplicate claims that were not recommended for compensation.

②/ Claims from the first instalment where additional documentation had been requested by the Panel (see supra paragraph 10-1).

③/ Claims from Part One of the second instalment where additional documentation had been requested by the Panel (see supra paragraph 10-2).

④/ Claims from Part Two of the second instalment where additional documentation had been requested by the Panel (see supra paragraph 10-3).

⑤/ Corrections to claims in previous instalments (see supra paragraph 21).

⑥/ A claimant may claim, under claim form "B," for more than one loss, e.g., for serious personal injury and for death. Consequently, the number of claims in this table is higher than the number of claim forms received by the secretariat.

24. These findings are without prejudice to the conclusions and findings of panels for other categories of claims. The Panel adopted this report, including the recommendations to the Governing Council, by unanimity.

Geneva, 20 October 1995

(Signed) Mr. Mohamed Bennouna
Chair

(Signed) Mrs. Denise Bindschedler-Robert
Commissioner

(Signed) Ms. Fang Ping
Commissioner

Notes

1/ S/AC.26/1992/10.

2/ "Claims For Which Established Filing Deadlines Are Extended," Decision Taken by the Governing Council of the United Nations Compensation Commission at its 29th Meeting, Held in Geneva on 27 September 1992," S/AC.26/1992/12 ("Decision 12").

3/ "Recommendations Made by the Panel of Commissioners Concerning Individual Claims for Serious Personal Injury or Death (Category 'B' Claims)," S/AC.26/1994/1 (the "first report").

4/ "Report and Recommendations Made by the Panel of Commissioners Concerning Part One of the Second Instalment of Claims for Serious Personal Injury or Death (Category 'B' Claims)," S/AC.26/1994/4 (the "second report").

5/ "Report and Recommendations Made by the Panel of Commissioners Concerning Part Two of the Second Instalment of Claims for Serious Personal Injury or Death (Category 'B' Claims)," S/AC/26/1995/1 (the "third report").

6/ "Decision Concerning the First Instalment of Claims for Serious Personal Injury or Death (Category 'B' Claims) Taken by the Governing Council of the United Nations Compensation Commission at its 43rd Meeting, Held on 26 May 1994 in Geneva," S/AC.26/Dec.20 (1994) ("Decision 20").

7/ "Decision Concerning Part One of the Second Instalment of Claims for Serious Personal Injury or Death (Category 'B' Claims) Taken by the Governing Council of the United Nations Compensation Commission at its 48th Meeting, Held on 14 December 1994 in Geneva," S/AC.26/Dec.26 (1994) ("Decision 26").

8/ "Decision Concerning Part Two of the Second Instalment of Claims for Serious Personal Injury or Death (Category 'B' Claims) Taken by the Governing Council of the United Nations Compensation Commission at its 51st Meeting, Held on 22 March 1995 in Geneva, "S/AC/26/Dec.27 (1994) ("Decision 27").

9/ See also paragraphs 42-46 of the second report.

10/ The 711 claim forms in the third instalment are comprised of 320 claims for serious personal injury and 402 claims for death. The total number of claims is higher than the number of claim forms since a claim form may include more than one loss.

11/ See pages 15-17 of the first report.

12/ Rules, article 41 (1): "Computational, clerical, typographical or other errors brought to the attention of the Executive Secretary within 60 days from the publication of the decisions and reports, will be reported by the Executive Secretary to the Governing Council."